

IN THE SENATE

SENATE BILL NO. 1054

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE UNIFORM RECOGNITION OF SUBSTITUTE DECISION-MAKING DOCUMENTS ACT; AMENDING TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 15, TITLE 15, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR THE VALIDITY OF A SUBSTITUTE DECISION-MAKING DOCUMENT, TO PROVIDE MEANING AND EFFECT OF A SUBSTITUTE DECISION-MAKING DOCUMENT, TO AUTHORIZE RELIANCE UPON A SUBSTITUTE DECISION-MAKING DOCUMENT UNDER CERTAIN CONDITIONS, TO PROVIDE FOR AN OBLIGATION TO ACCEPT A SUBSTITUTE DECISION-MAKING DOCUMENT UNDER CERTAIN CONDITIONS, TO PROVIDE FOR REMEDIES UNDER OTHER LAW, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION, TO PROVIDE FOR RELATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT AND TO PROVIDE APPLICABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 15, Title 15, Idaho Code, and to read as follows:

CHAPTER 15

UNIFORM RECOGNITION OF SUBSTITUTE DECISION-MAKING DOCUMENTS ACT

15-15-101. SHORT TITLE. This chapter shall be known and may be cited as the "Uniform Recognition of Substitute Decision-Making Documents Act."

15-15-102. DEFINITIONS. As used in this chapter:

(1) "Decision maker" means a person authorized to act for an individual under a substitute decision-making document, whether denominated a decision maker, agent, attorney in fact, proxy, representative or by another title. The term includes an original decision maker, a co-decision maker, a successor decision maker and a person to which a decision maker's authority is delegated.

(2) "Good faith" means honesty in fact.

(3) "Health care" means a service or procedure to maintain, diagnose, treat or otherwise affect an individual's physical or mental condition.

(4) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality or other legal entity.

(5) "Personal care" means an arrangement or service to provide an individual shelter, food, clothing, transportation, education, recreation, social contact or assistance with the activities of daily living.

(6) "Property" means anything that may be subject to ownership, whether real or personal or legal or equitable, or any interest or right therein.

1 (7) "Record" means information that is inscribed on a tangible medium
 2 or that is stored in an electronic or other medium and is retrievable in per-
 3 ceivable form.

4 (8) "Substitute decision-making document" means a record created by an
 5 individual to authorize a decision maker to act for the individual with re-
 6 spect to property, health care or personal care.

7 15-15-103. VALIDITY OF SUBSTITUTE DECISION-MAKING DOCUMENT. (1) A
 8 substitute decision-making document for property executed outside this
 9 state is valid in this state if, when the document was executed, the execu-
 10 tion complied with the law of the jurisdiction indicated in the document or,
 11 if no jurisdiction is indicated, the law of the jurisdiction in which the
 12 document was executed.

13 (2) A substitute decision-making document for health care or personal
 14 care executed outside this state is valid in this state if, when the document
 15 was executed, the execution complied with:

16 (a) The law of the jurisdiction indicated in the document or, if no ju-
 17 risdiction is indicated, the law of the jurisdiction in which the docu-
 18 ment was executed; or

19 (b) The law of this state other than this chapter.

20 (3) Except as otherwise provided by law of this state other than this
 21 chapter, a photocopy or electronically transmitted copy of an original sub-
 22 stitute decision-making document has the same effect as the original.

23 15-15-104. MEANING AND EFFECT OF SUBSTITUTE DECISION-MAKING DOCU-
 24 MENT. The meaning and effect of a substitute decision-making document and
 25 the authority of the decision maker are determined by the law of the juris-
 26 diction indicated in the document or, if no jurisdiction is indicated, the
 27 law of the jurisdiction in which the document was executed.

28 15-15-105. RELIANCE UPON SUBSTITUTE DECISION-MAKING DOCUMENT. (1)
 29 Except as otherwise provided for in sections 15-12-119 and 39-4513, Idaho
 30 Code, a person that in good faith accepts a substitute decision-making
 31 document without actual knowledge that the document is void, invalid or
 32 terminated, or that the authority of the purported decision maker is void,
 33 invalid or terminated, may assume without inquiry that the document is gen-
 34 uine, valid and still in effect and that the decision maker's authority is
 35 genuine, valid and still in effect.

36 (2) A person that is asked to accept a substitute decision-making docu-
 37 ment may request and without further investigation rely upon:

38 (a) The decision maker's assertion of a fact concerning the individual
 39 for whom a decision will be made, the decision maker or the document;

40 (b) A translation of the document if the document contains, in whole or
 41 in part, language other than English; and

42 (c) An opinion of counsel regarding any matter of law concerning the
 43 document if the person provides in a record the reason for the request.

44 15-15-106. OBLIGATION TO ACCEPT SUBSTITUTE DECISION-MAKING DOCU-
 45 MENT. (1) Except as otherwise provided in subsection (2) of this section or
 46 by law of this state other than this act, including section 15-12-120(2)(b),

1 Idaho Code, a person that is asked to accept a substitute decision-making
 2 document shall accept within a reasonable time a document that purportedly
 3 meets the validity requirements of section 15-15-103, Idaho Code. The per-
 4 son may not require an additional or different form of document for authority
 5 granted in the document presented.

6 (2) A person that is asked to accept a substitute decision-making docu-
 7 ment is not required to accept the document if:

8 (a) The person otherwise would not be required in the same circum-
 9 stances to act if requested by the individual who executed the document;

10 (b) The person has actual knowledge of the termination of the decision
 11 maker's authority or the document;

12 (c) The person's request under section 15-15-105(2), Idaho Code, for
 13 the decision maker's assertion of fact, a translation or an opinion of
 14 counsel is refused;

15 (d) The person in good faith believes that the document is not valid or
 16 the decision maker does not have the authority to request a particular
 17 transaction or action; or

18 (e) The person makes, or has actual knowledge that another person has
 19 made, a report to the local office of adult protective services stat-
 20 ing a belief that the individual for whom a decision will be made may be
 21 subject to abuse, neglect, exploitation or abandonment by the decision
 22 maker or a person acting for or with the decision maker.

23 (3) A person that in violation of the provisions of this section refuses
 24 to accept a substitute decision-making document is subject to:

25 (a) A court order mandating acceptance of the document; and

26 (b) Liability for reasonable attorney's fees and costs incurred in an
 27 action or proceeding that mandates acceptance of the document.

28 15-15-107. REMEDIES UNDER OTHER LAW. The remedies under this act are
 29 not exclusive and do not abrogate any right or remedy under law of this state
 30 other than this chapter.

31 15-15-108. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying
 32 and construing this uniform act, consideration must be given to the need to
 33 promote uniformity of the law with respect to its subject matter among the
 34 states that enact it.

35 15-15-109. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
 36 COMMERCE ACT. This chapter modifies, limits or supersedes the electronic
 37 signatures in global and national commerce act, 15 U.S.C. section 7001 et
 38 seq., but does not modify, limit or supersede section 101(c) of that act,
 39 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the
 40 notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

41 15-15-110. APPLICABILITY. This chapter applies to a substitute deci-
 42 sion-making document created before, on or after the effective date of this
 43 chapter.